

Notice of Allowability**Application No.**

10/678,805

Applicant(s)

KRISHNAN ET AL.

Examiner

CYNTHIA B. WILDER

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/16/2008.
2. ☒ The allowed claim(s) is/are 22-25, 27-36 and 45-61.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/GARY BENZION/
Supervisory Patent Examiner, Art Unit 1637

NOTICE OF ALLOWANCE

1. Applicant's amendment filed 10/16/2008 is acknowledged and has been entered. Claims 1-21, 26 and 37-44 have been canceled. Claims 22, 32 and 45 have been amended. Claims 53-61 have been added. Claims 22-25, 27-36 and 45-61 are pending. All of the arguments and amendments have been thoroughly reviewed and considered. Applicant's amendments place the claims 22-25-27-36 and 45-61 in condition for allowance. The Examiner statement of reasons for allowance and an Examiner's amendment appears below.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peter Carroll on January 14, 2009.

The application has been amended as follows:

(a) In the claims 28, 33 and 48, the limitation "PlexiglasTM" has been deleted and replaced with --plexiglass--.

Declaration

3. The Declaration under 37 CFR 1.132 filed 10/16/2008 is sufficient to overcome the rejection of claim 22-25, 27-36 and 45-52 based upon the Expert's evidence of unexpected superior results of the instant invention over the prior art.

Reasons for allowance

4. The following is an examiner's statement of reasons for allowance: Applicant's amendment and arguments at pages 13-16 of the response filed 10/16/2008 necessitate withdrawal of the prior art rejections. The amendment and arguments provides sufficient evidence that the production of the temperature differential of the instant invention for thermocycling is different and unobvious over the teaching of the prior art. Applicant's arguments at page 14 further provides sufficient evidence that the primary reference of Benett et al teaches away from the instant invention in the teachings of the elimination of a cooling means. Likewise the declaration by the Expert, Dr. Ugaz, further supports the novelty of the instant invention by providing evidence of unexpected superior properties of the instant invention over the prior art.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CYNTHIA B. WILDER whose telephone number is (571)272-0791. The examiner can normally be reached on a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GARY BENZION/
Supervisory Patent Examiner, Art Unit 1637